

Remarks

The applicants and their counsel have fully considered the Office Action of April 7, 2004 and offer the following remarks in conjunction with the amendment presented above for claim 1. Reconsideration is respectfully requested.

PTO Form 892

Preliminarily, it is noted that no Form PTO 892 was received with the Office Action of April 7, 2004. The applicants respectfully request such form with the next Office Communication.

Double Patenting:

The applicants respectfully traverse the Double Patenting Rejection. As amended, claim 1 recites that the device have "an insertable shaft having a distal end, said shaft comprised of a hemostatic shroud disposed around an inner component, said inner component having a distal end, said shaft having a soft tip on said distal end of said shaft, and said shroud disposed around said shaft and extending beyond the distal end of said inner component." This claim specifically requires that the shroud extend beyond the distal end of the inner component. Thus, the pending claims, namely 1, 3, 6, and 8-11, are not anticipated by claims 10-12 of the '154 patent. Withdrawal of this rejection in light of the amendment to claim 1 is respectfully requested.

U.S. Patent No. 3,483,859 to Pittman:

U.S. Patent No. 3,483,859 to Pittman was used by the PTO to reject claims 1, 3, 6, 8 and 9 under 35 U.S.C. § 102(b), and to reject claims 10 and 11 under 35 U.S.C. § 103(a). As noted above, claim 1 now recites that the shroud extend beyond the distal end of the inner component. This feature is neither taught nor suggested by the '859 reference. Specifically, the device of the '859 patent has its shaft continuing well beyond the distal end of the balloon. Fig. 1, for example, shows the distal end of the balloon ending well above the end of the shaft. In fact, the '859 reference teaches that about 9 inches separates the end of the "string" from the inflatable means. See column 3, lines 44-46. Thus, as amended, claim 1 is neither anticipated nor rendered obvious by the '859 patent.

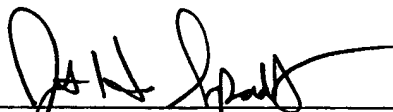
As noted in the current specification, the extension of the shroud beyond the distal end of the inner component achieves a desired characteristic of the present invention, namely a soft tip. Such soft tip allows for easier insertion into a body passageway, such as a nasal cavity, and reduces irritation to the patient. Not only is this claimed limitation not taught or suggested in the '859 reference, the device disclosed by the '859 reference is not capable of achieving this benefit.

As to the indication in the Office Action that the '859 reference teaches a "soft tip as claimed," the applicants respectfully submit (for clarity of the record) that no such soft tip is taught by the '859 reference. Indeed, the distal most part of the device of the '859 reference is "closed off by a metal grommet 18." The applicants submit that a metal grommet does not meet the claimed recitation of "soft tip." Inasmuch as the above-discussed amendment to claim 1 obviates any need to argue this point further, however, the applicants respectfully submit that claims 1, 3, 6, and 8-11 are neither anticipated nor obvious under the '859 reference.

Conclusion

Moreover, because claim 1 is patentable in light of all known prior art, and claims 3, 6, and 8-11 all depend, either directly or indirectly, from claim 1, all pending claims in this application are in condition for allowance. Early and favorable notice to that effect is respectfully requested.

Respectfully submitted,



Jonathan H. Spadt, Reg. No. 45,122
Attorney for Applicant

JHS/dhm

Dated: April 20, 2004

Appln. No.: 09/998,524
Amendment Dated April 20, 2004
Reply to Office Action of April 7, 2004

EQT-102US

☒ P.O. Box 980
Valley Forge, PA 19482
(610) 407-0700

☐ P.O. Box 1596
Wilmington, DE 19899
(302) 778-2500

The Commissioner for Patents is hereby authorized to charge payment to Deposit Account No. **18-0350** of any fees associated with this communication.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

April 20, 2004

